

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BOYD

v

CA: 05-10873-RWZ

Austin, et al.

PLAINTIFF'S MOTION FOR INJUNCTION

Plaintiff moves the court to issue an injunction, pursuant to FED.R.Civ.P 65(a), prohibiting the United States Marshal's Service or its Thrid Party Contractors from the opening of any legal mail out of the Plaintiffs presence, from interfering with or hindering any lawful communications with Plaintiff's lawyers, the courts or any governmental officer or agency unless authorized by the Court.

Plaintiff offers the attached affidavit in support of this motion.

Respectfully Submitted,



8/24/05

Grant A. Boyd, Pro Se
PO Box 100
S. Walpole, MA 02071

CERTIFICATE OF SERVICE

I, Grant Boyd, Certify that on August 24, 2005, I servered the within Plaintiff's motion for injunction and supporting affadivat on all of the attornys representing the Defendants as well as the Department of Corrections Legal Division and the Commissioner of Corrections for Massachusetts, by mailing postage prepaid to:

US Department of Justice
Eugenia Carris, AUSA
1 Courthouse Way
Boston, MA 02210

Isabel Eonas, Deputy General Counsel
Plymouth County Sheriff's Department
24 Long Pond Rd
Plymouth MA 02360

Nancy White - DOC Legal Division
70 Franklin Street, Suite 600
Boston, MA 02110-1300

Kathleen Dennehy - DOC Commissioner
50 Maple Street, Suite 3
Milford MA 01757-3698

Signed under the pains and penalties of perjury,



Grant Boyd Pro Se
PO Box 100
S. Walpole, MA 02071

8/24/05
Date

AFFIDAVIT OF GRANT BOYD

The below events relate to Grant Boyd being denied access to his attorneys and to the courts by the staff at MCI Cedar Junction.

On 8/11/05 DOC Employee Nelson Alves received from me four (4) envelopes containing court filings and legal correspondances for my Attorney, the US Federal Court, US Attorney's Office and Plymouth County Sheriff's Department (see exhibit A & B) along with a purchase slip to cover postage on 4-14oz envelopes being mailed First Class. However, only one (1) envelope was actually mailed by MCI-Cedar Junction the remaining three (3) envelopes were not processed [see Exhibit C - receipt stating \$3.85 charged for (Postage-Fed.CT/4 Env)]. \$3.85 only covers one mailing at 14/oz.

Between 3/22/05 - 3/30/05 MCI-CJ Mail room would not process my indigent mail to the US Federal Court, US Marshals Service, my attorney or Plymouth County Superior Court, even though my account balance was zero (0). This issue was reported to the Supertindent of Walpole and the Commissioner of Corrections (see exhibit C & D) - no corrective action taken.

Between 4/11/05 - 5/5/05 MCI Staff refused to process my indigent mail, stating I was not indigent, yet I only had .48¢ in my account. They denied my mail to the US Federal Court and my attorney.

Between 3/22/05 - 4/4/05 DOC employees at MCI-CJ refused to provide me access to a phone or my phone account to call my attorney, they did activate my phone pin for one day on 03/29/05 but deactivated it after I attempted to send indigent (SEE Exhibit F)

mail to the USMS and my Attorney asking for a transfer and for assistance in dealing with retaliation issues that were occurring here at MCI related to CA: 05-10873-RWZ, my mail to the USMS was later returned opened and revealed that I was going to attempt calling to follow up with the mail.

On 4/6/05, after obtaining permission from MCI Superintendent to take a taped deposition for my criminal case, my attorney Stacey L Brown was denied access to the facility with a recorder.

Had this been an isolated incident the issue would never be raised, however there appears to be a pattern of harrassment aimed at interfering with my access to the courts and my attorney correspondances/ communication. These events caused me to terminate my civil action against the DOC in CA: 05-10873-RWZ in the hopes to ending the harrassment that was interfering with my ability to communicate with my attorney and prepare a defense. Given the above events I do not feel I can confidentially correspond with my attorney or the courts without MCI staff intercepting my legal mail. It is expected when legal mail is sealed and mailed it will not be opened or misdirected by prison officials.

I, Grant Boyd, certify under pain and penility of perjury that all of the above events are true and actually occured.



Grant Boyd

8/24/05
Date

Grant Boyd A93192
PO Box 100
S Walpole, MA 02071

Exhibit

A

August 10, 2005

United States Court House
Clerk - Civil
1 Courthouse Way
Boston, MA 02210

RE: Civil Action 05-10873-RWZ

Dear Clerk:


Enclosed you will find four (4) filings:

1. Plaintiff's motion in opposition to USMS motion to dismiss
2. Plaintiff's memorandum in support of Plaintiff's opposition to USMS motion to dismiss
3. Plaintiff's motion in opposition to PCSD motion to dismiss
4. Plaintiff's memorandum in support of Plaintiff's opposition to PCSD motion to dismiss

All items were mailed postage prepaid to each defendant, please find the attached Certificate of Service.

Could you please send me a copy of the Docket indicating that the filings were received and docketed.

Respectfully,

 8/10/05
Grant Boyd, Pro Se
PO Box 100
S. Walpole, MA 02071

CERTIFICATE OF SERVICE

I, Grant Boyd, certify that on this 10 day of August 2005, I
Served the within Plaintiff's motion in opposition to both the
PCSD and USMS motions to dismiss along with Plaintiff's
Memorandum in Support for each motion in opposition, by
mailing postage prepaid to:

US DEPARTMENT OF JUSTICE
EUGENIA M. CARRIS
ASSISTANT US ATTORNEY
JOHN JOSEPH MOAKLEY US COURTHOUSE
1 COURTHOUSE WAY
BOSTON, MA 02210

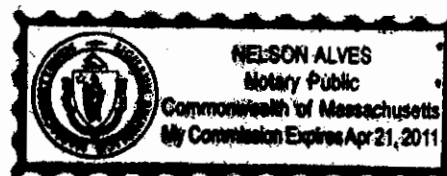
ISABEL EONAS, DEPUTY GENERAL COUNSEL
PLYMOUTH COUNTY SHERIFF'S DEPARTMENT
24 LONG POND ROAD
PLYMOUTH, MA 02360

Signed under the pains and penalties of perjury,



Grant Boyd, Pro Se
PO Box 100
S. Walpole, MA 02071

8/10/05
Date




8/11/05

Exhibit

B

NCI CEDAR JUNCTION MAIL RECEIPT

I, GRANT A BOYD, INMATE # A930¹⁹²~~12~~, SSN 081600905, CERTIFY THAT I AM
PLACING IN AN ENVELOPE ONE COPY OF THE FOLLOWING DOCUMENT(s):

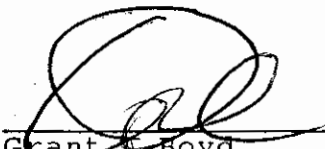
1. Motion in Opposition to Dismiss - USMS
2. Motion in Opposition to Dismiss - PCSO
3. Including Memorandum in Support of EACH
4. COVER PAGE
5. CERT OF SERVICE

AND HANDING THE ENVELOPE, WHICH IS ADDRESSED TO:

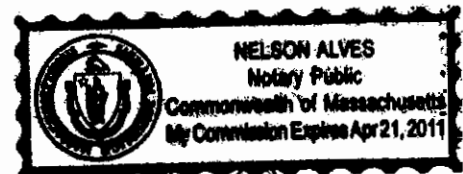
- ① USFED Court - Boston
- ② AUSA CARMS - USMS
- ③ PCSO ISABEL ENOAS
- ④ Ron Richards

TO A DEPARTMENT OF CORRECTIONS STAFF MEMBER NAMED: Nelson Alves

TO BE MAILED THIS DAY 10 of August 2005.


Grant A. Boyd

8/11/05
Date



Civil Case: 05-10873-RWZ
BOYD v. AUSTIN


8/11/05

Exhibit

C

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF CORRECTION

MCI CEDAR JUNCTION

Date: 2005 0815 10:28:54

Inmate Receipt

Receipt # 5111867

Institution : MCI CEDAR JUNCTION

Unit : BLOCK 4

Block: 3

Commit # : A93192

Name : BOYD, GRANT

Type Of Transaction : IC - Transfer from Inmate to Club A/c

Date of Transaction : 20050815

Source :

External Contact :

Amount : \$ 3.85

ONLY COVERS POSTAGE FOR 1 ENVELOPE

Comments : POSTAGE (FED.CT-4 ENV)

3 DID NOT GET SENT

Current Balances :

Personal
965.58

Savings
.00

Frozen
.00

Sentence Fees
.00

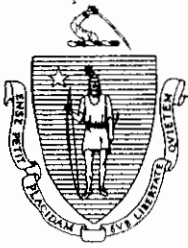
Restitution Fees
.00

Loan Amount
.00

Shows FOUR (4) ENVELOPES, EACH
ENVELOPE WAS 1402, THE DOC
ONLY PROCESSED ONE (1) ENVELOPE
AND REFUSED THE OTHERS.

Exhibit

D



Mitt Romney
Governor

Kerry Healey
Lieutenant Governor

Edward A. Flynn
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety

Department of Correction
Office of the Assistant Deputy Commissioner

One Industries Drive, Bldg. A
P.O. Box 188

Norfolk, MA 02056
(508) 850-7732/7733 Fax (508) 850-1027
www.mass.gov/doc



Kathleen M. Dennehy
Commissioner

James R. Bender
Deputy Commissioner

Timothy Hall
Assistant Deputy
Commissioner

May 3, 2005

Grant Boyd, A93192
MCI-Cedar Junction
P.O. Box 100
So. Walpole, MA 02071

Dear Mr. Boyd:

Your letter addressed to Commissioner Dennehy dated April 4, 2005 regarding your complaints that Superintendent Nolan and staff at MCI-Cedar Junction are blocking your access to courts has been referred to me for reply.

Be advised that the court has found you indigent for the purpose of filing fees in regard to Boyd v. Austin, et al PLCV2005-00310. However, the court did not find you indigent for mailing purposes.

According to the Treasurer at MCI-Cedar Junction, you do not fall under indigency status on the institutional level at this time. She notes that you received funds totaling one hundred dollars during the month of March. It is also noted that you expended over forty dollars of these funds on canteen items.

I trust this addressed your concern.

Sincerely,

Timothy Hall
Assistant Deputy Commissioner

cc. Kathleen M. Dennehy, Commissioner
David Nolan, Superintendent, MCI-CJ
Inmate File
File

TO: Court
THIS HAS OCCURRED 4 TIMES
SINCE 4/4 SPECIFICALLY WITH LETTERS
TO THE USMS AND US FEDERAL
COURT. IN ADDITION TO
THE ABOVE MATTER.
Grant Boyd
5/8/05

** Prior to 3/30 my account WAS 0, this*
WAS WHEN I ATTEMPTED TO MAIL INDIGENT
Prior to 3/30.

Exhibit
Σ

Copy

To: Superintendent Nolan

From: Grant Boyd A93192 (2)

CC: 4/2/05 to ATTORNEY FOR MY COMPANY DURING A VISIT

RE: Phone Access to Counsel being DENIED

DATE: 4/3/05

First let me start off by apologizing for the grievance on regular paper and not the grievance form. AFTER repeatedly requesting one over several days none were provided

Problem: Came to Waipale on 3/22 was denied access to my lawyer AND medical treatment for HIV while in HSU. I was in isolation for 3 days.

AS OF 4/3/05 I still cannot make calls, I am pre-trial AND NEED ACCESS to my lawyer

I have asked Nelson, Nelsons Boss, Sgt at IPS AND ON UP. NO ONE can make it work for me

Lawyer Problem: ON 3/22 AT 4 AM I WAS MOVED FROM P.C. AT Plymouth to WAIPALE, AFTER Filing letter with Sheriff McDonald that I had FILED A LAW SUIT AGAINST PCCF CIVIL ACTION PLCV2005-00310 IN SUPERIOR COURT FOR CIVIL RIGHTS VIOLATIONS, ONLY 13 HOURS (OVER)

EMERGENCY GRIEVANCE

Rec'd Book 4/5/05

3/25/05

To: Phone Officer

From: A93192 Grant Boyd B-4 cell 6
A93195

RE: PIN # 811594

At Booking the Sgt entered all my
Phone #'s But they have not been
approved. I have been here
since Tuesday and NO ONE knows
where I am. CAN you please
assist me ~~and~~ AND approve #'s
I generate a PIN?

Thank you



Here's a copy of
your phone list

pg 3/30/05

Default Contract Code

INMATE CALLING LIST

MCI Cedar Jxn Walpole

Acct. No.	Other ID	PIN	Name	Facility	Phone No.	Person at Phone	Relationship	Status Allowed
A93195		811596	BOYD, GRANT	WALP	3042434717	DAVID BOYD	FATHER	A Y
A93195		811596	BOYD, GRANT	WALP	3042436005	MARY BOYD	MOM	A Y
A93195		811596	BOYD, GRANT	WALP	6175361409	PHIL FERRY	FRIEND	A Y
A93195		811596	BOYD, GRANT	WALP	5084872543	MIKE CLIFFORD	FRIEND	A Y
A93195		811596	BOYD, GRANT	WALP	4014345180	VIRGINIA GREENWOOD	FRIEND	A Y
A93195		811596	BOYD, GRANT	WALP	3104709916	MARTY GODIN	ATTORNEY	A Y
A93195		811596	BOYD, GRANT	WALP	6177322107	PETE HORSHMAN	ATTORNEY	A Y
A93195		811596	BOYD, GRANT	WALP	4012709665	AJ MANEM	ATTORNEY	A Y
A93195		811596	BOYD, GRANT	WALP	6172620143	STACEY BROWN	ATTORNEY	A Y

END OF DETAIL

Exhibit

F

COMMONWEALTH OF MASSACHUSETTS**DEPARTMENT OF CORRECTION****INMATE GRIEVANCE FORM****FORWARD TO INSTITUTIONAL GRIEVANCE COORDINATOR (IGC)**

Name BOYD GRANT Grievance# 9533 Institution MCI CEDAR JUNCTION
 Commit No. A93192 Housing BLOCK 4 Date Of Incident 20050322 Date Of Grievance 20050403
 Complaint This was the only thing I had to write a grievance on, no forms after repeated requests. Since 3.22, I have had no telephone access. My pin number is and has not, but for 1 day, been working.

Everyone I talk with says no problem but it still does not work. Nelson and Nelson's boss, IPS Sgt. and Lt, and hallway Lt. Can you please assist whoever handles the phone system with giving me access to an outside line to call my lawyer.

Remedy
Requested

Staff Recipient Sullivan Daniel CO II
 Staff Involved

Signature

RECEIPT BY INSTITUTIONAL GRIEVANCE COORDINATOR

Date Received 20050403 Decision Date

Signature

Final Decision

Decision

Signature

Date

Denied grievances may be appealed to the Superintendent within 10 working days of Institution Grievance Coordinator's decision.

INMATE RECEIPT

Name BOYD GRANT Institution MCI CEDAR JUNCTION
 Commit No. A93192 Grievance# 9533 Date Received 20050403
 Signature. Sullivan Daniel CO II